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Reply to Office action of November 15, 2005

REMARKS/ARGUMENTS

Claims 1-30 are currently pending in this application.

Claims 1-10 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram (U.S. Publication 2002/0064177) in view of Feinleib (U.S. Patent No. 6,637,032). Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram in view of Feinleib, and further in view of Landis (U.S. Patent No. 5,428,400). Applicant respectfully traverses these rejections.

Independent claims 1, 5, and 17 recite that the first and second data streams are for the same "particular television program." Bertram, however, merges transport packet streams of different programs. (See, pars. 0028, 0033). Bertram discloses that the second transport stream TIN2 relied on by the Examiner carries a fourth program which is merged with different second and third programs of the first transport stream TIN1. (See 0048). Thus, even if Feinleib were to teach data streams for a single television program, due to the express teaching in Bertram to the contrary, a person of skill in the art would have no motivation to modify Bertram so as to merge transport packet stream of the same "particular television program." Accordingly, claim 1 is now in condition for allowance.

Claims 2-4, 6-11, and 18-23 are also in condition for allowance because they depend on an allowable base claim, and for the additional limitations that they contain.

Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram in view of Bauchot (U.S. Patent No. 6,141,336). Applicant respectfully traverses this rejection.

In the Examiner's Response to Arguments, the Examiner states that "Bauchot was simply introduced to teach manipulating data units assigned to particular time slots in data streams." (Final Office action page 4). However, the Examiner relies on Bauchot for more than that. The Examiner relies on Bauchot to make up for all the limitations that are not taught in Bertram, specifically, the limitation of a processing unit that includes logic for "identifying time slots of a television signal assigned to the plurality of first data units in the first data stream; reassigning a portion of the plurality of first data units assigned to particular time slots to earlier time slots; and

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assigning at least a portion of the plurality of second data units in the second data stream to the particular time slots." (Emphasis added).

The Examiner contends that the test for determining whether the combination is proper is "what the teachings of the references would have suggested to those of ordinary skill in the art." (Id.). Applicant submits that a person of skill in the art, even after considering Bauchot, would not have been motivated to modify the teachings of Bertram for "reassigning a portion of the plurality of first data units assigned to particular time slots to earlier time slots" because doing so would render Bertram's system unsatisfactory for its intended purpose. Bertram explains that in generating a slotted transport stream T including three programs, "a packet associated with program 1 is immediately followed by a packet associated with program 2, which is immediately followed by a packet associated with program 3, which is in turn immediately followed by a packet associated with program 1 (and so on)." (Bertram page 2, par. 0024). Bertram's transport stream "advantageously allows the processing of programs (i.e. slotted sub-streams) without significant retiming operations . . . This is because the relative position of each packet associated with a particular program remains the same with respect to the other packets within the program. Thus, one program will not be affected by modifications made to another program, as long as the modifications do not affect the relative position of the packets in the one program." Any teaching in Bauchot of "reassigning a portion of the plurality of first data units assigned to particular time slots to earlier time slots" would alter the relative position of the packets for a particular program in Bertram, making Bertram's system unsatisfactory for its intended purpose. Accordingly, claims 12 and 24 are now in condition for allowance.

Claims 13-15 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram in view of Bauchot and further in view of Feinleib. Claims 13-15 and 25-27 are in condition for allowance because they depend on an allowable base claim, and for the additional limitations that they contain.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram and Bauchot in view of Feinleib and further in view of Landis. Claim 16 is in condition for

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allowance because it depends on an allowable base claim, and for the additional limitations that it contains.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram and Bauchot and further in view of Landis. Claim 28 is in condition for allowance because it depends on an allowable base claim, and for the additional limitations that it contains.

Claims 29 and 30 are rejected as being unpatentable over Feinleib in view of Landis. Applicant respectfully traverses this rejection.

First, claim 29 requires that the "ITV data stream" include "ITV reveal command data and ITV payload data." Nothing in Feinleib teaches or suggests an "ITV data stream" that includes these two separate types of data.

Second, claim 29 requires "determining whether the ITV reveal time slot is available." (Emphasis added). The Examiner contends that this is disclosed because in Feinleib, a producer determines at which point in the program to insert ITV data. The producer in Feinleib, however, adds supplemental data based on particular closed captioning text, and not based on any determining of availability (or non-availability) of a time slot. In fact, Feinleib makes no mention of any kind of "time slot." Although the closed captioning script in Feinleib includes closed captioning text, there is nothing to indicate that the script also includes time slots that could be investigated for availability, and that could be assigned to closed caption data and ITV reveal command data.

Third, claim 29 requires "reassigning the segmented closed captioning payload data to one or more time slots earlier than the ITV reveal time slot." (Emphasis added). The Examiner contends that this is disclosed because in Feinleib, ITV related data is inserted in between "Oh, hi how" and "are you." Thus, the Examiner concludes that "Oh, hi how" is reassigned to one or more time slots earlier than the ITV reveal time slot. However, such a conclusion is unsupported by Feinleib. Feinleib makes no mention of whether, or how, the insertion of the ITV related data into the closed captioning script modifies the timing of the closed captioning payload data, and proposes no solution to handle any such a modification. Accordingly, claim 29 is now in condition for allowance.
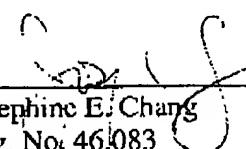
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Claim 30 is also in condition for allowance because it depends on an allowable base claim, and for the additional limitations that it contains.

In view of the above amendments and remarks, Applicant respectfully requests reconsideration and an early indication of allowance of claims 1-30.

Respectfully submitted,

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